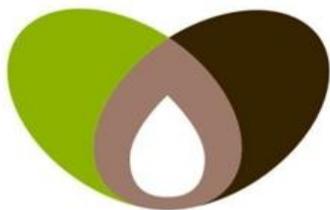




REGULATIONS ON BIOFUELS AND THEIR MIXTURES

Free Translation

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NIQUEL Lda

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REGULATIONS ON BIOFUELS AND THEIR MIXTURES

CHAPTER I

DEFINITIONS AND OBJECTIVE

Article 1

Definitions

For the purposes of applying these Regulations, the terms listed below are defined as follows:

- a) **Anhydrous**: substance of any nature containing up to 1% of water in its volume;
- b) **B100**: bio-diesel not containing diesel in its composition;
- c) **B3**: mixture of diesel and pure bio-diesel, whose volume consists of 3% of bio-diesel and 97% of diesel;
- d) **Bio-fuel**: fuel made from bio-mass;
- e) **Bio-diesel**: methyl ester made by chemical conversion (trans-esterification reaction) of vegetable or animal oils with alcohol in the presence of a catalyst and with the fuel quality suitable for diesel engines, to be used as bio-fuel;
- f) **Anhydrous bio-ethanol**: Ethyl alcohol with up to 1% of water in its composition;
- g) **Bio-ethanol**: Ethyl alcohol made from bio-mass and/or the biodegradable fraction of waste, to be used as bio-fuel;

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- h) **Marketing of bio-fuels:** process in which the seller of bio-fuels mediates the transfer of the product from the producer to the consumer in return for monetary payment or a compensation of some other nature;
- i) **Distribution of bio-fuels:** transfer of bio-fuels from the producer to the final consumer in return for monetary payment or a compensation of some other nature;
- j) **E10:** mixture of gasoline- anhydrous ethanol whose volume consists of 10% ethanol and 90% of gasoline;
- k) **E100:** pure bio-ethanol, that is, 100% bio-ethanol;
- l) **“Captive” Fleets:** those fleets consisting of licensed vehicles owned by a single company or entity for the collective transport of passengers, cargo or another activity, characterized by the uniformity of operation, services and area of operation;
- m) **Octane:** the rate indicating the resistance to detonation of fuels used in engines;
- n) **Pure vegetable oils made from oil-bearing plants:** oil made by pressing, extraction or comparable methods from oil-bearing plants, crude or refined, but chemically unaltered, when its use is compatible with the engine types and the respective emission requirements;
- o) **Procurement entity:** Entity created for the procurement of liquid fuels in terms of the present regulations;
- p) **Production of bio-fuels:** processing of raw material of vegetative or animal origin, for the production of liquid bio-fuels;
- q) **Unloading Quay Terminal:** Installation at sea, lake or river consisting of pipe work and accessory equipment, designated for the unloading of oil products, including any associated pipelines;

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Article 2

Objective

These Regulations define the regime governing the production, processing, marketing and distribution of bio-fuels and their mixtures.

CHAPTER II

LICENSING OF PRODUCTION, PROCESSING AND STORAGE OF BIO-FUELS

Article 3

Production and Processing

1. Local producers of raw material for the production of bio-fuels shall deliver these exclusively to holders of licenses for the production, storage and distribution of bio-fuels, for the subsequent introduction on the national market of the blended product.
2. It is incumbent on the Ministry that supervises the area of agriculture to promote and inspect the production of raw material of vegetative as well as animal origin to be used in the production of bio-fuels.
3. The production, processing, storage and distribution of bio-fuels shall take place in suitable industrial installations complying with the safety rules in place.
4. The control and periodic inspection of industrial installations for the production, processing, storage, distribution and marketing of bio-fuels shall be carried out by a multisectoral team consisting of technicians of the Ministries that supervise the areas of energy, agriculture, industry, commerce, health and the environment.

Article 4

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Types of Licenses

1. Practicing the production, processing, storage, export and transport of bio-fuels shall be in accordance with the terms and conditions of a valid license issued by the Ministry that supervises the area of energy.
2. The entity licensed under the present Regulations may be holder of one or more licenses, in accordance with the activities it intends to carry out.
3. Annual production of up to 5.000 liters and that for own use is not subject to licensing.

Article 5

Competências for Licensing

1. Individuals or collective entities interested in producing, storing, exporting and transporting bio-fuels shall submit an application to the Ministry that supervises the area of energy or to the Provincial Government, accompanied by an investment project that shows its technical, economic, financial and environmental feasibility.
2. The authorization of the licensing of the production of bio-fuels is incumbent upon:
 - a) The Minister who supervises the area of energy, for production of up to 12.000.000 liters per year;
 - b) The Council of Ministers, for the production of bio-fuels exceeding 12.000.000 liters per year.

Article 6

Application for Licenses

The License for the production, processing, storage, export, wholesale, transport or resale of bio-fuels is applied for by means of a request addressed to the Ministry

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that supervises the area of energy and/or to the Provincial Governors, accompanied by the following documents:

- a) Certificate from the commercial registry and a copy of the statutes, in the case of legal entities;
- b) Authenticated copy of the identification documents, in the case of individuals;
- c) Authorization of residence of employment and proof of residence in national territory, in the case of citizens from abroad;
- d) Recognized copies of documents proving the nationality of the shareholders or owners of the requesting entity, in the case of legal entities.

Article 7

Validity and Contents of Licenses

1. Licenses issued under the present Regulations are valid for an indeterminate period.
2. Activities licensed under number 1 of the present article shall commence within a period of at most 2 years after the issue of the respective license.
3. The model of the licenses shall contain the following elements:
 - a) Identification of the licensing entity;
 - b) Number and date of issue;
 - c) Complete identification of the holder;
 - d) Residence or head office of the holder;
 - e) Name of the mandatary, in the case of collective entities;

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- f) The activities being authorized;
 - g) Identification of the products included;
4. Licenses are terminated by;
- a) Renunciation;
 - b) Revocation, due to non-compliance with the provisions of these Regulations.
5. It is incumbent upon the Minister who supervises the area of energy to establish, by means of Ministerial Diploma, detailed licensing proceedings.

CHAPTER III

CONTROL, STORAGE, MARKETING, SUPPLY CONTRACTS

Article 8

Control Mechanism

1. Bio-fuel producers shall inform on a semi-annual basis, and whenever necessary, the Provincial or Central bodies supervising the area of energy or the entity nominated by the Government about the quantities of bio-fuels produced as well as the volumes marketed and the identity of the respective buyers.
2. The delivery of bio-fuels by producers to the Bio-fuel Procurement Entity is made by means of a contract explicitly containing the characteristics of the product in accordance with the technical specifications that apply to bio-fuels, as approved by the Ministry that supervises the area of energy.

Article 9

Storage

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1. Bio-fuels are stored in appropriate installations and in accordance with safety specifications.
2. The deposit of bio-fuels requires the authorization of the Ministry that supervises the area of energy and of the Provincial Governors, obeying the technical norms and the Safety Regulations.

Article 10

Marketing of Pure and Blended Bio-fuels

1. Distributors and transporters shall prepare and adapt their installations and equipment to handle, store, transport and distribute bio-fuels;
2. The blending of bio-fuels with fossil fuels shall take place in unloading terminals, in order to guarantee the blending levels defined;
3. It is incumbent upon the Ministry that supervises the area of energy to authorize the installation of distribution deposits and new bio-fuel supply outlets for consumption in the following establishments:
 - c) Agricultural and animal husbandry entities;
 - d) Hospitals;
 - e) Industrial entities;
 - f) Commercial entities;;
 - g) Transport companies;
 - h) Military Departments;
 - i) And other entities that apply.

Article 11

Supply Contracts of Bio-fuels for Blending

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1. Bio-fuels for the mixtures defined in the present Regulations are acquired through the services of the Bio-fuel Procurement Entity under supervision of the Ministry that supervises the area of energy, the Provincial Governors or of another entity authorized for this purpose.
2. Bio-fuel supply contracts shall be entered into in accordance with the National Programme for the Acquisition of Bio-fuels.

Article 12

Exports of Bio-fuels and their Derivatives

Exports of bio-fuels are only allowed after the minimum quantities for the blending of bio-fuels with fossil fuels for consumption within the country have been guaranteed.

CHAPTER IV

PRICES AND FEES

Article 13

Prices

1. It is incumbent upon the Ministers that supervise the areas of energy and finances to approve the price structure of pure bio-fuels for the purpose of blending within the national territory.
2. In establishing the price structure of pure bio-fuels one shall take into consideration the production costs of raw material in the agricultural phase; the processing and transformation of raw material in the production phase and the costs of transport, storage and distribution, in accordance with the table below.

Table 1: Bio-fuel production costs to be incorporated in the bio-fuel price calculations

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Costs of the agricultural phase	Costs of the bio-fuel production phase	Transport, storage and distribution costs
Equipment	Equipment	Equipment
Energy	Energy	Energy
Labour	Labour	Labour
Water	Water	Water
Fertilizer, pesticides, insecticides	Raw material	

Article 14

Fees

1. The production, storage, export and transport of bio-fuels are subject to payment of the following fees:

a) Production license issue fee:

- i. To the amount of 10.000,00 Meticaís for the production of up to 6.000.000 liters per year;
- ii. To the amount of 100.000,00 Meticaís for the production of 6.000.000 to 12.000.000 liters per year;
- iii. To the amount of 200.000,00 Meticaís for the production of more than 12.000.000 liters per year.

b) Storage license issue fee:

- i. To the amount of 2.000,00 Meticaís for the storage of up to 6.000.000 liters per year;

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- ii. To the amount of 20.000,00 Meticaís for the storage of 6.000.000 to 12.000.000 liters per year;
 - iii. To the amount of 40.000,00 Meticaís for the storage of more than 12.000.000 liters per year.
- c) Annual production fee, to an amount equivalent to 1% of marketed production;
 - d) Export fee for vegetable oil designated for the production of bio-diesel, made from bio-energetic crops, to the amount of 10 Meticaís per liter, to be paid to the customs authorities upon exporting;
 - e) Inspection fee to the amount of 6.000,00 Meticaís;
 - f) Registry and legalization fee to the amount of 500,00 Meticaís;
2. Exempt from fee are the activities referred to in number 3 of article 4.
 3. The amounts of the fees referred to in paragraphs a) b) c), d) e) and g) of number 1 of the present article shall be paid in full by means of guide model B in the Directorate of the respective Fiscal Area.
 4. The amounts above are subject to changes by joint Ministerial Diploma of the Ministers that supervise the areas of energy and finances, in function of the evolution of these activities.

CHAPTER V

Blending and Suspension Percentages

Article 15

Bio-fuel Percentage

1. From January 2012 onwards the following blending is obligatory:

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- a) Bio-diesel with diesel to be marketed on national territory;
 - b) Anhydrous bio-ethanol with gasoline, with the exception of gasoline for aviation purposes and 97 octane gasoline.
2. The percentage of anhydrous ethanol in its blending with gasoline is:
- a) 10%, from January 2012 until 31 December 2015;
 - b) 15%, from January 2016 until 31 December 2020;
 - c) 20%, from January 2021.
3. The percentage of bio-diesel in its blending with diesel is:
- a) 3%, from January 2012 until 31 December 2015;
 - b) 7.5%, from January 2016 until 31 December 2020;
 - c) 10%, from January 2021.
4. The distributors of oil products shall guarantee that the blending percentages of bio-fuels in oil products marketed during the period referred to are not inferior to the minimum percentages established in these Regulations.

Article 16

Product Mixtures

The addition of anhydrous ethanol and pure bio-diesel to gasoline and diesel respectively may exceed the percentages in volume indicated in these Regulations and the period referred to, when the fuel resulting from the blending is destined for testing or for being used in:

- a) Specific or captive fleets;
- b) River or rail transporte;

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- c) The generation of electric energy; and
- d) Specific industrial processes.

Article 17

Determination of the percentage of anhydrous ethanol to be blended with gasoline

In order to determine the blending percentage of bio-ethanol with gasoline, one shall use the following formula:

$$\% Bio = \left(\frac{A}{A + B} \right) * 100$$

Where:

% Bio is the percentage of bio-ethanol in the period referred to, expressed in volume percentage

A is the volume of bio-ethanol added in the mixture with gasoline

B is the volume of gasoline added in the mixture.

Article 18

Determination of the percentage of Bio-diesel to be blended with Diesel

In order to determine the blending percentage of bio-diesel with diesel, one shall use the following formula:

$$\% Bio = \left(\frac{A}{A + B} \right) * 100$$

Where:

% Bio is the percentage of bio-diesel in the period referred to, expressed in volume percentage

A is the volume of bio-diesel added in the mixture with diesel

B is the volume of diesel added in the mixture.

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Article 19

Suspension of the Percentages Required for Bio-fuels

The Minister that supervises the area of energy may suspend or reduce the blending percentages in the following cases:

- a) Health and public safety risks;
- b) Negative environmental impact on the availability or quality of water, soil fertility or biodiversity;
- c) Other reasons of public interest.

CHAPTER VI

VIOLATIONS AND SANCTIONS

Article 20

Violations

Non-compliance with the following constitutes a violation:

1. Production, processing, storage and exporting without a valid license issued by the Ministry that supervises the area of energy.
2. The production of bio-fuel in non-industrial installations.
3. The storage of bio-fuel and its derivatives without complying with the safety norms included in the bio-fuel specifications established by Ministerial Diploma.
4. The marketing of bio-fuel not complying with the bio-fuel specifications established by Ministerial Diploma.

Article 21

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Sanctions

The holders of the authorizations referred to in these Regulations are subject to sanctions defined in the sequel, when they violate the regulatory provisions contained in article 20 of these Regulations.

1. Non-compliance with the provision in article 6 is punishable with fines to the amount equivalent to fifty (50) minimum wages for the energy sector, in force in the country.
2. Canceling of the authorization for production and storage, due to violation of number 1 of article 4.
3. Fines.

3.1 Adulteration of the specifications for the quality of bio-fuel, fines to the amount determined by the following formulas:

$$3.1.1 \text{ Bio-ethanol: } |(\% \text{ Bio} - \% X)| * (A + B) * 20,00 \frac{\text{Mts}}{\text{l}_{\text{mistura}}};$$

Where: *A* - Volume in liters of Bio-ethanol added to the mixture in question,

B - Volume in liters of gasoline added to the mixture in question

X – Percentage of the bio-ethanol mixture in question

$$3.1.2 \text{ Bio-diesel: } |(\% \text{ Bio} - \% Y)| * (A + B) * 25,00 \frac{\text{Mts}}{\text{l}_{\text{mistura}}};$$

Where: *A* - Volume in liters of Bio-diesel added to the mixture;

B - Volume in liters of diesel added to the mixture;

Y – Percentage of the Bio-diesel mixture in question;

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- a) Confiscation or apprehension of the licenses described in article 4;
 - b) The license may be revoked because of non-compliance.
4. The application of the sanctions mentioned above is determined in function of their gravity, in accordance with the following criteria:
- a) Nature of the violation;
 - b) Seriousness of the damages caused;
 - c) Benefits obtained as a consequence of the violation;
 - d) Previous behaviour of the individuals or legal entities benefited by these Regulations with respect to the regulatory norms and the re-occurrence of the transgressions.

CHAPTER VII

Deposit of Fees and Fines

Article 22

Fees

The fees paid have the following destination:

- a) 60% of the fees to the State Budget; and
- b) 40% to the National Directorate for New and Renewable Energy, an entity receiving from the CNB secretariat.

Article 23

Fines

The fines paid have the following destination:

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- a) 40% to the State Budget; and
- b) 60% to the National Directorate for New and Renewable Energy, an entity receiving from the CNB secretariat.

CHAPTER VIII

FINAL PROVISION

Article 24

Obligatory nature of Information

Producers shall annually inform the Ministry that supervises the area of energy about the quantities, characteristics, localities of use and final destination of bio-fuel and its derivatives, as well as about other details requested from its producers, suppliers or users.